



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Alton Freeman
County Attorney, Gaines County
Seminole, Texas

Dear Sir:

Opinion No. O-6834

Re: Authority to appoint Assistant or Deputy County Treasurer in county having a population of less than 20,000, and whether such Treasurer can hold office while serving in the Armed Forces; and related questions.

Received your letter of recent date in which you ask the following five questions:

"1. Gaines County has a population of less than 20,000 inhabitants. Can the County Treasurer, with the consent of the Commissioners Court, appoint an assistant or deputy to perform the duties of the office while she is a member of the armed services of the United States, Army or Navy Service?

"2. In the event that she can legally appoint a deputy to perform the duties of the office while she is away in military service, can the county continue to pay her salary to her while she is in such service and in addition thereto pay the deputy for her?

"3. Can the County Treasurer continue to hold her office in any manner after she becomes a Wave in the Navy, or gets in any branch of the military service?

"4. Is it legally possible for a County Commissioner to continue to hold his office after going into the Army?

"5. Can a County Clerk in our county continue to hold his office and draw his salary after being inducted into the Army?"

Our opinion No. 0-4454, which is herewith enclosed, answers your question No. 1 in the affirmative.

Our opinions No. 0-5098 and No. 0-5588, copies of which are herewith enclosed, answer your questions Nos. 2, 3, 4 and 5 in the affirmative.

In connection with the above we submit herewith our opinion No. 0-5039 for your information in case any of such county officers mentioned by you become officers in the Armed Forces.

In regard to your question No. 3 in particular, the WAVES, SP 4S, WACS and WOMEN MARINES, are all auxilliary to the various branches of our Armed Forces and are part of the Organized Reserves of the United States, as distinguished from the "Regular Army," "Regular Navy," and "Regular Marine Corps," and as such, your County Treasurer could become an officer in same and still not be disqualified by that fact alone to take and hold public office in this State, under the holding of our Supreme Court in *Cramer v. Sheppard*, 167 S. W. (2d) 147.

Hoping the above answers your questions, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

RECEIVED
JAN 10 1944
E. P. Blackburn
ATTORNEY GENERAL OF TEXAS

By *Robert L. Lattimore, Jr.*
Robert L. Lattimore, Jr.
Assistant

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